1948 **File No.** O/DIR/48

Legal Department-

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Subject:—

Opinions on the cases Under the DEFENCE OF INDIA RULES.

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C O N T E N T S

Legal Department File No O./D.I.R. /48

Sr. No.	R. I. / O. No.	Subject	Pages
		Opinions under the Defence of India Rules	
1.	429 / 13-1-1948	Whether A Guest night' held in same messes of Army officers is a function and whether entertainment of more than 24 members on such night would involve a breach of orders banning entertainment of more than 25 persons	1-2
2.	O/669 / 17-11-1948	Whether a prosecution can be launched against (1) Mr. Mahijan Aran. and (2) Mr. Patre Gestinho of Bombay Stores and Restaurant for serving tea prepared of skim milk powder and for obtaining skim milk powder without a permit.	3-4

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I would rather confine my opinion to the case under reference and would not like to extend it to dances at hotels and clubs which must naturally be governed by their own special facts regarding the object and nature of the dance.

In the case under reference the first question for determination is whether a "guest night" is a function, social or otherwise. Function in this context means a Guest nights at messes are not presumably connected with any ceremony and are not necessarily arranged in relation to important public occasions. They are distinguished from other nights only by the liberty the dinner is given to invite his guest; the mess as a body acting in concert, can also invite guests on such nights. But judging by the scope and nature of the hospitality, a guest night would have to be treated as an important social occassion or meeting; and therefore, strictly speaking, a function within the meaning of the Order.

From this view it would follow that no one individual member of the mess can invite more than 24 persons as his guests; not could the members together constituting the mess invite in their corporate capacity a like number of guests. It is, however, possible to argue that, unlike a hotel, where diners sit at different tables, in a mess where all sit at the same table the guests must be treated as the guests of all acting in concert. If that be the correct view of the factual position, it wouldnotbe permissible for guests to sit at the table if by their presence the total number ofdiners including members of the mess would exceed 25. If on the other hand, a mess be of the same character as a hotel where a diner can entettain his guests separately, there would be no objection to each individual inviting guests within the prescribed number. In any case the distinction made by

P.T.O.

the Commissioner between civilians and ladies on the one hand and army officers on the other is not warranted by the Order.

On the whole having regard to the corporate character of a mess I am inclined towards the strict view and would say that it would not be premissible to have such number of guests on a guest night as would take the total number of diners (including the dining members) beyound 25.

This view would cause unnecessary hardship to messes in what may besaid to be an essential social amenity to them; and it is for the Department to consider whether this is not a fit case for relaxing the rule by granting a general permit.

Sd/- P.M.Lad

O.C. 13/1

Remembrancer of Legal Affairs.

U.O. to C.S.D. No. 429 dated 13th January 1945.

Mjr/7/7

4 Cs.

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what is prohibited is the obtaining of skimmed milk powder otherwise than on a valid permit. No milk powder was found in the Restaurant. Only on the strength of the alleged use of skimmed milk in one cup of tea, it would bedifficult to persuade the Court to raise the presumption that the Keeper of the restaurant had obtained skimmed milk powder.

Sd/- P.M.Lad

O.C. 16/11

Remembrancer of Legal Affairs.

U.O.R. to M.C. No.G/ 669, dated 17/11/48

Mjr/7/7

4 Cs.